THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO.22708 of 1999

Dated: 05-07-2006

Between:

M/s Shivani Wines, Nandyal, Kurnool District.

..... PETITIONER

AND

The Government of Andhra Pradesh,
rep. by its Secretary, Hyderabad, and two others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION NO.22708 of 1999

ORDER:

The petitioner at the relevant time was granted licence under the provisions of the Andhra Pradesh Indian Liquor and Foreign Liquor Rules, 1970 to carry on retail business. On the ground that the shop was situated within the prohibited distance from a college, licence was suspended on 23-05-1998 and subsequently the same was restored on 05-03-1999. When the rentals were demanded, it filed the instant writ petition.

A counter-affidavit is filed denying the right of the petitioner to seek remission. It is also brought to the notice of this Court that for any reason the licensee is prevented to carry on business, such licensee is not entitled for remission of licence.

In **S.L.V.Wines v. State of A.P.**[1], a Full Bench of this Court considered the question whether the licensee is entitled to any remission for the period during which the licensed premises was suspended. The question was answered in the negative, holding that no licensee can claim remission when the shop is closed during the period of suspension. After referring to the provisions of Section 31(3) and following the decision of the Full Bench of this Court in **Sri Narasimha Wines v. Prohibition and Excise Superintendent**[2], to which I was a member, the writ petition for remission was dismissed. The following relevant observations are apt and require to be extracted.

> A bare perusal of the above provisions shows that the licensee whose licence has either been cancelled or suspended is not entitled to any compensation nor to the refund of any fee paid or deposit made in respect of the licence, which constitutes the excise revenue to the State…
>
> Adverting to sub-rule (9) of Rule 25 of the Rules, 1970, a Full Bench of this Court in Sri Narasimha Wines case (supra) held in Para 24 thus:
>
> The matter relating to remission has been provided for by the State in exercise of its rule making power itself, which can neither be said to be unjust or arbitrary, no writ of, or in the nature of, mandamus can be issued directing the respondents to grant remission for the period during which no business was carried on.

Following the decision of the Full Bench referred to hereinabove, this writ petition is dismissed. No costs.

(**V.V.S.RAO, J**)

5th July, 2006
ghn

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[1] W.P.No.15904 of 1994, dated 17.3.2005

[2] 2002 Suppl. (1) ALD 375=2001(6) ALT 240 (FB)